

Atty. Docket No. FR91999007US1
(590.106)

REMARKS

In the Office Action dated April 30, 2004, pending Claims 1-14 were rejected. The Office is respectfully requested to reconsider the rejections in view of the following remarks.

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. On April 22, 2004, Applicants' counsel conducted a telephone interview with the Examiner during which the Examiner agreed to rescind the finality of the previous Office Action. The present invention and the Garcia reference were also discussed. No agreement was reached with respect to the claims.

Claims 1-14 were pending in the instant application at the time of the outstanding Office Action. Claims 1, 9, and 14 are independent claims; the other claims are dependent claims. The preambles of Independent Claims 1, 9, and 14 have been rewritten to bring them closer to US practice; no change in the scope of the claims is intended by these amendments.

The Section 101 Rejections

Claims 1, 9 and 14 stand rejected under 35 U.S.C. 101 for failure to rise to the level of merit within the technical arts. This rejection is respectfully traversed. In support of this rejection, the Examiner cites to a decision rendered by the Board of Patent Appeals and Interferences, *Ex Parte Bowman*, 61 USPQ2d 1665, 1671 (BD. Pat. App. & Inter 2001) (*Unpub*). The Office Action acknowledges that *Bowman* is not precedential, but states "it is being cited for its analysis of whether the claim(s) is/are in the technical arts." The analysis of *Bowman*, however, shows that a Section 101 rejection is improper in the present case. The Examiner in

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Bowman found “that neither the specification nor the claims discuss the use of any technology with respect to the claimed invention” and as such, “the disclosed and claimed invention is directed to nothing more than a human making mental computations and manually plotting the results on a paper chart”. The Board affirmed, finding the “Examination Guidelines for Computer-Related Inventions are not dispositive of this case because there is absolutely no indication on this record that the invention is connected to a computer in any manner.” *Bowman* thus contrasts with the present case, in which the claims are appropriate under the Examination Guidelines for Computer-Related Inventions, because there is ample indication in the record that the present invention is connected to a computer. The subject matter of Claims 1, 9 and 14 is within the limits of the statutory classes.

The Section 112 Rejections

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to point out and claim the subject matter. The Office asserts in Claims 1-8 it is unclear what the exploratory data analysis method is or how it is being used and that the Office does not understand what the Applicants mean by the term “standard” description. The Office further asserts Claims 9-13 are indefinite because it is unclear whether Applicants intend to claim a method or apparatus since the preamble recites “system”. The rejections are respectfully traversed.

Applicants respectfully submit that Claims 9-13 are definite. The sole basis for the rejection of these claims appears to be that the preamble of Independent Claim 9 begins “[a] system for ...” Claims in this format, however, have long been considered to be appropriate. For

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example, at recently as July 27, 2004, U.S. Patent No. 6,769,064 for entitled "System for Protecting Software" issued, and the independent claim in this issued patent begins "A system for protecting software executable on a computer machine..." *See also* U.S. Patent No. 6,349,291 issued February 19, 2002 (Examiner Daniel S. Felten). An independent claim in this patent is very similar to Independent Claim 9 in the present application, as it recites "[a] system for providing statistical analysis of investment information over an information network comprising". To expedite prosecution, however, Applicants have rewritten Independent Claim 9 so the preamble now recites "the system comprising". Applicants note the Office has cited no authority for the proposition that a system claim such as Claim 9 is indefinite. In view of the authority permitting such claims, the rejection is not understood. Should the Office continue the rejection, clarification is requested.

The Examiner has also objected to the use of the term "standard description" in Claims 1-8, asserting it is not understood "what the applicant means by 'standard' description" and "what criteria the applicant considers 'standard'". As discussed in the application, a "standard description" is a data set which is consistent over various stocks thereby permitting the stocks to be compared. (*See* Page 6, line 31 - Page 7, line 12) While the contents of the data set (or standard description) may vary, the contents of the data set should be the same for each stock being compared. (*See* Pages 3-4 ("[f]or each stock option, each standard description of a current sub-time period is also compared to the standard description of a previous sub-time period".) As noted in the application, the description preferably comprises the values of the open price, the close price, the low price during the day and the high price during the day. The description,

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however, may also include other values. (Page 7, lines 2-3) Given the use of the term "standard description" in the application, it is respectfully submitted this rejection should be withdrawn.

The Examiner has also objected to the use of the term "exploratory data analysis method" in Claims 1-8, asserting it is unclear that the exploratory data analysis method is or how it is being used. Applicants respectfully submit that this term and its usage are not indefinite as they are understood by one of ordinary skill in the art. Exploratory data analysis is a recognized approach for data analysis. *See NIST/SEMATECH e-Handbook of Statistical Methods*, <http://www.itl.nist.gov/div898/handbook/eda/section1/eda11.htm>. A seminal work in exploratory data analysis is Tukey, John, *Exploratory Data Analysis*, Addison-Wesley (1977). Accordingly, it is respectfully submitted this rejection should be withdrawn.

The Section 103 Rejections

Claims 1-14 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Garcia (US 6,272,474). Garcia discusses the monitoring of stocks to provide information to traders for the purpose of buy/sell decisions. Garcia discloses a candle stick price-volume chart that allows an active trader to determine the high and low sale price during 10 minute time intervals. The claims of Garcia are directed toward a method of displaying stock information in the form of bid/ask trade bars from which an investor can read both trade and stock information regarding the bid and ask price.

The claims of the present invention, however, require much more than the use of candle sticks. By way of non-limiting example, Claim 1 includes comparing the standard description of the current sub-time period to the standard description of the previous sub-time period, and

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allocating a comparison code, the comparison code being chosen among a predetermined typology of a plurality of comparison codes. Similar language appears in the other independent claims. These comparison codes are referred to in the specification as "keydelt". See Figs. 3 (308) and 5 (510). Thus, in the present invention displayed candlesticks are positioned base upon a comparison code. See Page 11, lines 23-30 ("step 508 compares the current and previous set of characteristic values and maps the comparison to a predetermined comparison typology having keydelt codes 'KD' representing the relative positioning...").

It is respectfully submitted that, at a minimum, the feature just described is neither taught nor suggested by the applied art. Garcia fails to teach or suggest any use of comparison codes. A 35 USC 103(a) rejection requires that the cited reference provide both the motivation to combine the reference with the present invention and an expectation of success. Not only is there no motivation to combine, no expectation of success, but actually combining the references would not produce the claimed invention. Thus, the claimed invention is patentable over Garcia.

In view of the foregoing, it is respectfully submitted that independent Claims 1, 9, and 14 fully distinguish over the applied art and are thus allowable. By virtue of dependence from Claims 1 and 9, it is thus also submitted that Claims 2-8 and 10-13 are also allowable at this juncture.

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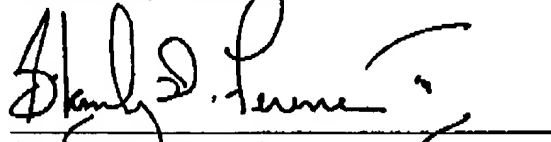
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In summary, it is respectfully submitted that the instant application, including Claims 1-14, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stanley D. Ference III", written over a horizontal line.

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